

## Other Documents

[3:04-cv-00001-RLY-WGH STATE OF INDIANA v. PHILLIPS NUTRITIONALS, INC. et al](#)

U.S. District Court  
Southern District of Indiana  
Office of the Clerk  
(317)229-3700  
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### Notice of Electronic Filing

The following transaction was entered by Hazlett, Justin on 1/18/2007 at 3:27 PM EST and filed on 1/18/2007 .

**Case Name:** STATE OF INDIANA v. PHILLIPS NUTRITIONALS, INC. et al

**Case Number:** [3:04-cv-1](#)

**Filer:** STATE OF INDIANA

**Document Number:** [52](#)

#### Docket Text:

STIPULATION *As to Entry of Permanent Injunction and Final Judgment as to All Defendants*, filed by Plaintiff STATE OF INDIANA. (Attachments: # (1) Exhibit A to Stipulation# (2) Text of Proposed Order Permanent Injunction and Final Judgment as to All Defendants# (3) Exhibit A to Permanent Injunction)(Hazlett, Justin)

#### 3:04-cv-1 Notice has been electronically mailed to:

Steve Barber    [steve@barlegal.net](mailto:steve@barlegal.net), [heather@barlegal.net](mailto:heather@barlegal.net), [janet@barlegal.net](mailto:janet@barlegal.net)

Justin G. Hazlett    [jhazlett@atg.state.in.us](mailto:jhazlett@atg.state.in.us), [jhazlett@indy.rr.com](mailto:jhazlett@indy.rr.com), [Raven.Bobbio@atg.in.gov](mailto:Raven.Bobbio@atg.in.gov)

Douglas W. Patterson    [bnc@dpattersonlaw.net](mailto:bnc@dpattersonlaw.net), [dwp@dpattersonlaw.net](mailto:dwp@dpattersonlaw.net)

#### 3:04-cv-1 Notice has not been electronically mailed to:

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP insdStamp\_ID=989432984 [Date=1/18/2007] [FileNumber=1131579-0]  
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**Document description:**Exhibit A to Stipulation

**Original filename:**n/a

**Electronic document Stamp:**

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**Document description:**Text of Proposed Order Permanent Injunction and Final Judgment as to All Defendants

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP insdStamp\_ID=989432984 [Date=1/18/2007] [FileNumber=1131579-2]

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**Document description:**Exhibit A to Permanent Injunction

**Original filename:**n/a

**Electronic document Stamp:**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION**

STATE OF INDIANA ex rel.	)	
Attorney General STEPHEN CARTER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:04-CV-001 RLY-WGH
	)	
FOXFIRE, LLC,	)	
d/b/a Institute of Natural Health,	)	
d/b/a Premier Products,	)	
	)	
PHILLIPS NUTRITIONALS, INC.	)	
d/b/a Institute of Natural Health,	)	
d/b/a Foxfire Corporation,	)	
d/b/a Premier Products,	)	
	)	
WAYNE PHILLIPS,	)	
individually and as a manager	)	
and owner of Foxfire, LLC and	)	
as an officer and director of	)	
Phillips Nutritionals, Inc.,	)	
	)	
and	)	
	)	
ANITA PHILLIPS,	)	
individually and as a manager	)	
and owner of Foxfire, LLC and	)	
as an officer and director of	)	
Phillips Nutritionals, Inc.,	)	
	)	
Defendants.	)	

**STIPULATION AS TO ENTRY OF PERMANENT INJUNCTION  
AND FINAL JUDGMENT AS TO ALL DEFENDANTS**

Plaintiff, State of Indiana, by counsel Attorney General Stephen Carter and Deputy Attorney General Justin G. Hazlett, and Defendants Foxfire, LLC, Phillips Nutritionals, Inc., Wayne Phillips, and Anita Phillips, by counsel Douglas W. Patterson, stipulate and consent to

the entry of the Permanent Injunction and Final Judgment as to All Defendants in this civil action, attached as Exhibit A. The parties stipulate to the entry of this Permanent Injunction and Final Judgment as to All Defendants without the taking of proof and without it constituting evidence or an admission by Defendants regarding any issue of fact alleged in the Complaint, and without Defendants admitting any liability. The parties further stipulate that:

1. The United States District Court for the Southern District of Indiana (the “Court”) has jurisdiction over the subject matter of, and the parties to, this civil action.

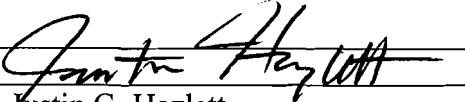
2. The injunctive provisions of the Permanent Injunction and Final Judgment as to All Defendants apply to Defendants and to their agents, assigns, employees, and representatives; to all persons acting by, through, under, or on behalf of Defendants; and to all persons acting in concert with or participating with Defendants who have actual or constructive knowledge of this Permanent Injunction and Final Judgment as to All Defendants.

3. Defendants, jointly and severally, agree to be permanently enjoined and restrained as more fully set forth in the attached Permanent Injunction and Final Judgment as to All Defendants. Defendants stipulate to take all actions necessary to comply with said injunction and to remove any threat of violation of said injunction.

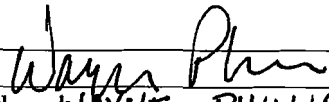
4. The Court retains jurisdiction over this matter for the purpose of enabling any party to the Permanent Injunction and Final Judgment as to All Defendants to apply to the Court at any time for such further orders and directions as may be necessary and appropriate for the construction or carrying out of the Permanent Injunction and Final Judgment as to All Defendants, for the modification of any of the injunctive provisions of it, for the enforcement of compliance with it, or for the punishment of violations of it.

5. Defendants each acknowledge and knowingly, intelligently, and voluntarily waive their right to appeal from the issuance and contents of the Permanent Injunction and Final Judgment as to All Defendants.


STATE OF INDIANA  
Attorney General Stephen Carter

By:   
Justin G. Hazlett  
Deputy Attorney General  
Attorney No. 22046-49  
Date: 1/12/2007

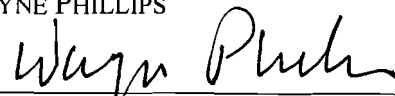
FOXFIRE, LLC

By:   
Printed: WAYNE PHILLIPS  
Title: PRESIDENT  
Date: 12/13/06


PHILLIPS NUTRITIONALS, INC.

By: ~~Wayne~~   
Printed: WAYNE PHILLIPS  
Title: PRESIDENT  
Date: 12/13/06

WAYNE PHILLIPS

  
Wayne Phillips  
Date: 12/13/06

ANITA PHILLIPS

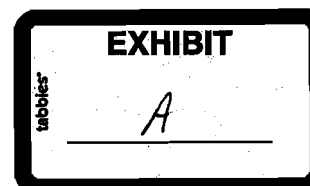
  
Anita Phillips  
Date: 12/13/06

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION**

STATE OF INDIANA ex rel.	)	
Attorney General STEPHEN CARTER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:04-CV-001 RLY-WGH
	)	
FOXFIRE, LLC,	)	
d/b/a Institute of Natural Health,	)	
d/b/a Premier Products,	)	
	)	
PHILLIPS NUTRITIONALS, INC.	)	
d/b/a Institute of Natural Health,	)	
d/b/a Foxfire Corporation,	)	
d/b/a Premier Products,	)	
	)	
WAYNE PHILLIPS,	)	
individually and as a manager	)	
and owner of Foxfire, LLC and	)	
as an officer and director of	)	
Phillips Nutritionals, Inc.,	)	
	)	
and	)	
	)	
ANITA PHILLIPS,	)	
individually and as a manager	)	
and owner of Foxfire, LLC and	)	
as an officer and director of	)	
Phillips Nutritionals, Inc.,	)	
	)	
Defendants.	)	

**PERMANENT INJUNCTION AND FINAL JUDGMENT AS TO ALL DEFENDANTS**

Plaintiff, State of Indiana, by counsel Attorney General Stephen Carter and Deputy Attorney General Justin G. Hazlett, and Defendants Foxfire, LLC, Phillips Nutritionals, Inc., Wayne Phillips, and Anita Phillips, by counsel Douglas W. Patterson, stipulate and consent to



the entry of this Permanent Injunction and Final Judgment as to All Defendants. The parties have stipulated to the entry of this Permanent Injunction and Final Judgment as to All Defendants without the taking of proof and without it constituting evidence or an admission by Defendants regarding any issue of fact alleged in the Complaint, and without Defendants admitting any liability. The Court has considered this civil action and the pleadings in it, and hereby **ORDERS, ADJUDGES, AND DECREES** that:

1. This Court has jurisdiction over the subject matter of, and the parties to, this civil action.

2. The injunctive provisions of this Permanent Injunction and Final Judgment as to All Defendants apply to Defendants and to their agents, assigns, employees, and representatives; to all persons acting by, through, under, or on behalf of Defendants; and to all persons acting in concert with or participating with Defendants who have actual or constructive knowledge of this Permanent Injunction and Final Judgment as to All Defendants.

3. Defendants, jointly and severally, are permanently enjoined and restrained from planning, implementing, conducting, or otherwise participating with in any way any telemarketing campaign directed to or soliciting orders from individuals purchasing goods or services for primarily personal, family, or household purposes (hereinafter referred to as “consumers”). This provision shall not be construed to prohibit Defendants from engaging in wholesale transactions with third party suppliers.

4. Defendants, jointly and severally, are permanently enjoined and restrained from:

a. Violating Ind. Code § 24-5-0.5-3(a)(8) by misrepresenting to any consumer that a consumer transaction provides the consumer with the right to receive and use product for a trial period without incurring more than shipping and handling charges;

by misrepresenting to any consumer, any consumer's financial institution, or any other person either 1) that a consumer whose account Defendants charge has authorized Defendants to submit the charge or 2) that a consumer whose account Defendants charge is obligated to pay the charge submitted by Defendants; by otherwise misrepresenting that any consumer transaction involves a right or obligation that Defendants know or reasonably should know the transaction does not involve; or in any other way;

b. Violating Ind. Code § 24-5-0.5-3(a)(1) by misrepresenting that the subject of any consumer transaction includes the characteristic or benefit of providing any consumer the right to receive and use product for a trial period without incurring more than shipping and handling charges; by otherwise misrepresenting that the subject of any consumer transaction has a characteristic or benefit that Defendants know or reasonably should know the subject of the consumer transaction does not have; or in any other way;

c. Violating Ind. Code § 24-5-0.5-3(a)(14) by engaging in the replacement of product without a consumer's authorization, when Defendants know or reasonably should know that the consumer has not authorized such replacement; or in any other way;

d. Violating Ind. Code § 24-5-0.5-3(a)(7) by misrepresenting third party sponsorship, approval, or affiliation in any consumer transaction; or in any other way;

e. Violating any other provision of Indiana's Deceptive Consumer Sales Act, currently codified at Ind. Code §§ 24-5-0.5-1 through -12; and

f. Submitting any charge to any consumer's credit card, bank, or other financial account without express authorization from that consumer, or contrary to the terms set forth in the solicitation made by Defendants or Defendants' representative to the consumer.



5. Defendants shall pay consumer restitution, shall pay to the Indiana Attorney General's consumer protection fund, and shall pay the costs of the Attorney General's investigation and prosecution of this matter as set forth in the Recitation of Terms of Agreement Reached Through Mediation, attached hereto as Exhibit A.

6. This Court retains jurisdiction over this matter for the purpose of enabling any party to this Permanent Injunction and Final Judgment as to All Defendants to apply to the Court at any time for such further orders and directions as may be necessary and appropriate for the construction or carrying out of the Permanent Injunction and Final Judgment as to All Defendants, for the modification of any of the injunctive provisions of it, for the enforcement of compliance with it, or for the punishment of violations of it.

7. By stipulation of all parties filed with this Court, Defendants have acknowledged and waived their right to appeal from the issuance and contents of this Permanent Injunction and Final Judgment as to All Defendants. Based upon this stipulation, the Court finds that such waivers, being knowingly, intelligently, and voluntarily made, are valid and, accordingly, further orders that no appeal be taken from the issuance and contents of this Permanent Injunction and Final Judgment as to All Defendants.

8. There is no just reason for delay and the clerk shall enter this Permanent Injunction and Final Judgment as to All Defendants immediately.

9. This Permanent Injunction and Final Judgment as to All Defendants shall take effect immediately upon its entry.

Dated: \_\_\_\_\_

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Judge  
U.S. District Court for the  
Southern District of Indiana